

THE TRIAL
OF THE
WASHINGTON
ELECTION RIOTERS.

(FROM SUTTON'S REPORT.)

TUESDAY, July 7, 1857.

CRIMINAL COURT FOR THE COUNTY OF
WASHINGTON.JUDGE CRAWFORD,
Presiding.

PHILIP BARTON KEY, ESQ., U. S. D. A.

COUNCIL FOR THE DEFENCE.

JOSEPH H. BRADLEY, ESQ.,

ROBERT E. SCOTT, ESQ.,

VERBANIAN ELLIS, ESQ.,

JOHN LINTON, ESQ.,

WILLIAM J. MARTIN, ESQ.,

JOSEPH H. BRADLEY, JR., ESQ.,

WILLIAM J. STONE, JR., ESQ.,

DANIEL RAVENHILL, ESQ.,

EDWARD CARLINGTON, ESQ.

Messrs. Scott and Ellis (late editors of the Organ), were this morning admitted to practice in this Court. Mr. Scott, a lawyer of reputation, was brought on special retainer from Warrenton, Va. The parties are indicted for a riot at the first precinct of the Fourth Ward of Washington, on Monday, the first of June, 1857.

DEFENDANTS.

Daniel Stewart, Isiah Stewart, George Johnson, Vanamuel Johnson, William Garner, Charles Hurdle, Robert Stafford, William Jones, Charles Spencer, George C. Wiley, William B. Wilson, Michael Hoover and David Lewis.

Many others indicted are not in custody. The Jurors were sworn and interrogated.

1. Have you, at any time, formed or expressed an opinion as to the guilt or innocence of the parties or any of them?

2. Are you twenty-five years of age?

3. Are you worth \$500, over and above your debts?

Mr. BRADLEY desired the Jurors to be questioned as to their opinion whether there was a riot at the time specified in the indictment?

It was overruled by the Court, who limited the enquiry to the point whether the Juror had a bias for or against the defendants that might affect his judgment.

Mr. BRADLEY desired Mr. Stott to be asked in what country he was born, but it was overruled by the Court.

JURY.

James Barnes, James W. Ott, William T. Jones, William Van Riewick, Daniel Lightfoot, James M. Taylor, John T. Bradley, John E. Neale, George M. Sotheron, Samuel Stott, Abraham Butler, and John E. Kendall.

Several Jurors were rejected, because they had formed opinions as to the guilt of some of the parties. Others because they had not the property qualification.

The DISTRICT ATTORNEY. May it please the Court, gentlemen of the jury: this is an indictment against the defendants for a riot. Many others have been indicted who have not been arrested, and therefore are not on trial. You will find when you take the indictment, that those who are not on trial are marked so, and that you may distinguish them from those defendants who are on trial.

They are indicted for a riot in the Fourth Ward of this city on the first of June last. I deem it unnecessary to make any statement of what were the circumstances attending this offence; I will leave you to collect it from the evidence, as you will hear it from the witnesses.

MR. BRADLEY, Senr. We prefer to open our defence to the United States shall present their evidence; and with the permission of the court, I will state to you gentlemen of the jury, the nature, and character, and outline of the defence we set up in this case.

I know of no event in the history of this country of deeper or more paramount interest to the question now to be submitted to your consideration. Certainly since the American revolution there has been nothing like it on this continent, unless in Mexico. I have never read or heard of such a case as that which you are sworn to examine. I know it will be impossible for me to communicate to your minds the impression on my own. I know it will be impossible for you to feel in regard to it as I do, for I have been placed for the last six weeks, nearly two months, in a position different from that which you occupy, and I have made it my business to enquire with some degree of diligence into the incidents connected with this transaction. It is the first time in the history of this country, that the government troops of the United States have been called out to fire upon defenceless citizens. I hope, gentlemen, it will be the last. It is the first time in the history of this country that the police of the city, strong enough to suppress any riot among the people of the city, or any disturbance of the peace, were called out in order to exert its force before resort was had to military power. I repeat that I know of nothing like it since the celebrated massacre in Boston, in 1770. If any of you in your retirement will take the trouble to read the history of those days, you will see something like the matters you have now to examine—yet you will see something like this in those events which occurred when the government troops of Great Britain fired upon the inhabitants of Boston, and in it you will find one of the leading causes of the American Revolution.

Our defence is first: I solemnly know upon the opening made by the United States, how to shape it—that there was no riot at the polls of the 4th Ward, in the city of Washington, at the time charged; but a sudden affray on the morning of the day of election—a sudden affray in which two political parties were concerned—an affray which I will show you was anticipated by one of those parties, perhaps by both; but it was an affray springing up from sudden and accidental causes, and not a riot in the strict legal technical sense.

We will show you that that affray had ceased; that it lasted at the outside, not more than three minutes; that four hours of peace, and quiet, and order, prevailed at those polls; that the voting went on as quietly as you are now sitting in that jury box; that no man was prevented voting but one, who attempted to vote with a dead man's papers; that they deposited their votes without interruption, without trouble, for four long hours, as peacefully as at any other polls in Washington; and that while this is going on; while there was not a cloud in the heavens, while the sky was as serene as the sun ever lit up, the armed forces of the United States were brought there to suppress a riot! Peace and order prevailed there, and while voters were going through the quiet and regular process of voting, the armed forces of the United States were brought out, ostensibly to quell a riot, but, as we will develop in the course of this investigation, for a very different purpose.

As to the affray in the morning, if it be a riot, I charge here, and I stand on proof to support the charge, that it was sought and brought about by the executive authorities of the city. If there was a riot, those men who are put on trial were acting on the defensive. I will give you a statement of the facts which lead to that conclusion. I will show you to you by indisputable proof, that the Mayor of this city was informed, during the week before, that it was understood that men would come from Baltimore to disturb the election; and on respect- able citizens making such a statement, he said, "I know all about it. I am prepared to make affidavits for their arrest, and I will have the police at the station house to arrest them." I will show you by the authorities of this city. I will show you

that a citizen, a friend of the executive, boasted that the American party would not cast more than a few votes, and that if they did, they would have to vote in the afternoon through a file of Marines. I will show you that another citizen said in substance the same thing. I will show you that a workman said to his employers, who were opposed to the American party, whether they could not find employment for him on that Monday in some other place? and on being asked why, he said because there would be more American blood shed on that Monday, than ever before in the city of Washington. I will show you that instead of the Mayor being prepared with his police force of 40 men—14 police officers and 30 of the auxiliary guard, with their captains—they were not at their duty, and the Mayor could not be found.

I will show you that it was all calm until 9 o'clock, when, 12 or 14 young men went up 7th street, and that then one of the police magistrates, who was a candidate for the office of Alderman, sent to the Mayor for a police force to prevent a riot, but the Mayor could not be found, and the Captain of the auxiliary guard, when the affray might have been prevented.

I shall show you that those young men from Baltimore, some of whom are on this indictment—I do not know them—after some jeering, when Goddard sent for the Mayor, went away. They were gone some 20 or 30 minutes, and on returning to the polls they found a column of naturalized citizens, ranging from 100 to 300 men, rushing up to K street. There was scarcely an American in the column except at its head, apparently carrying out what had been before said, that the Americans would not be able to vote except in the afternoon through a file of Marines. They were in solid mass, literally taking possession of the polls. These young men approached the column, next the east stone, and Jeers and shouts followed; but I will show you that the first violence was done by police magistrate John H. Goddard, and the first pistol was fired by Captain Baggett, the captain of police. Then, gentlemen, take all this preparation, take all this arrangement, take all these facts, and group them together, and I ask you if these men did unite to resist this force, whether it was not a riot by them in resisting a riot?

Well, gentlemen, the affray lasted three minutes at the outside. This riot, which so disturbed the Executive of the United States, that he sent to Baltimore for a military force to keep the citizens of Washington in order, continued for three minutes. Nay, so soon was peace restored, that the Mayor and Captain Goddard, who had been followed by a barouche and returned to the polls, they found the judges were ready to proceed. And what next?

Gentlemen, I tell you it was prepared; I tell you it was pre-arranged; I tell you it was pre-arranged that this riot should be encouraged and ripened to its end, in order that the Marines might be called out. Have I do I show it? They remained there a few minutes, when the Mayor, without leaving his barouche, said he would soon have the Marines there. They left Captain Mills at the polls, and the Mayor and Capt. Goddard went to the Executive. They got an informal order, but the order could not be issued until certain information was produced, and on its production the order was formally obtained. The Mayor then returned to the City Hall. When the Mayor was preparing the information on which the order was issued, two citizens of Washington visited him, and before the order was issued a private message was sent to Capt. Tyler to hold himself in readiness to march when he should receive the order of the Executive. Accordingly, the application having been made, the order was issued. In regard to it we charged, that it was pre-arranged that this application should be founded upon false premises and gross misrepresentations. However, the order is sent for the Marines to march up and place themselves under the command of the Mayor. They are ordered to fix bayonets and load with cartridge, composed of a bullet and three buckshot, and march against who?

It is shown that 100 Marines marched with loaded guns and fixed bayonets with bayonets, among a crowd of defenceless men, women and children. They were first brought to the City Hall; after after was made to the Mayor to quell the mob, if mob there were; but the services of citizens were refused. The volunteer military force of the city was tendered to the Mayor, and that, too, was refused. He had the power to swear in as Captain Goddard as he had it, he had the Marshal of the District at his right hand, with power to summon the posse comitatus, and I ask, why was it not done? The plan was well matured, completely ripened, and thoroughly executed. With ample power to call out every citizen, with the Marshal of the District by his side, with power to call upon the Mayor-General of the militia, and with citizens pressing upon him with offers of voluntary service, he chose to resort to that deadly column, with Minnie balls and buckshot, to march upon a defenceless crowd.

The drama is hastening to its conclusion. He marches this force to I street; they come into line, and the polls are closed by the judges; the demand is made that they be opened. The answer is, withdraw the military and it shall be done, but not till then. The Marines are marched to the polls; they form a line; the polls are not opened, and to the eternal honor of those judges they did not obey the mandate to open them so long as the military was there to control them.

Well, gentlemen, what is the next step? After the Marines had marched, a parcel of wild, rattle-brained young men from the Navy-yard seized a cannon, and unquestioned they passed by the Marines and ran through the streets with it, while the Marines in the rear laughed, for they knew that that gun could do no harm. That gun was carried into an open space beyond the polls. They proceeded, by some means, ammunition; they stationed it on 7th street, with the Marines in line facing them. The Mayor was again accosted by respectable citizens, who said, Give us 25 men and we will remove that gun. He refused. The conflict is approaching. He turns off, goes to the military, and a platoon charges across the street and takes the gun. Gentlemen, I will show you that that gun was discharged nor a stone thrown at those Marines, until, in capturing that gun, they shot at least one American citizen. I will show you, that as they charged, the men fired from it, there was no one to resist, yet muskets were fired, and one man was killed dead. I mean Wells. As Harper and Wells were sitting at the market-house, above the gun, the Marines charged diagonally across the street, and as they charged, Wells was shot dead. The others fell over on their hands and knees and escaped. I know there is a conflict of testimony on this point, but I say it here in the face of day, that if I had been there I should have said, "The next moment I would have shot down the men who did it. It was the duty of every one to resist such lawless aggression."

These are the incidents of that day. Nay, I will go further. I will prove out of the mouths of respectable citizens that the order was given to fire, though it has been emphatically denied. I will prove, that the commanding officer gave the order to fire; I will show that the second in command gave the order to fire; and that it was given by the Mayor of Washington. Now, gentlemen, they thought to be somebody indicted on this occasion is indisputably true. To discover whom, call for earnest, unswerving, energetic action on the part of the people of this District, until they shall find out and bring to justice the aggressors. I say, if the facts be as they have been represented to me, the Mayor of Washington and those officers were guilty of murder. I say, there is no law of Congress or of the State of Maryland in force this day, which authorizes the calling out of the Marines under these circumstances. And if there be any such law and authority, and they are called out, unless there was an urgent and pressing necessity, unless the riot or disturbance of the peace could not be suppressed in any other way, it was murder to shoot on that day, and I will produce to you my authority. The only authority found in the Constitution of the United States for calling forth the militia, is to execute the laws of the Union, suppress insurrection, and repel invasion. Congress has legislated on that subject, and has provided how the military power may be called out in case of invasion or insurrection, and they have said, in so many words, that before they act, the President, by his proclama-

tion, shall put the citizens on their guard. He may order out the military when the ordinary civil authorities cannot suppress the disturbance. When they cannot control it, it may be an insurrection, but, in as many words, Congress has pointed out the duty of the President of the United States. That duty is to call out the military force of the United States to suppress any insurrection, without a proclamation, or to enforce any laws that may be broken by the violence of the people, until all the ordinary means have been exhausted. I will show that the Mayor of the city of Washington had 40 police officers under his control, with power to swear in special constables; he had the Marshal of the District at his right hand to call out the posse comitatus, he had officers of the volunteers and of men who had sympathies with us, but the assistance thus tendered to him was rejected, and without knowing the condition of things, the President of the United States put this force under the control of the Mayor.

The President may have imposed upon; but every man who executed those orders is guilty of murder, and I would not live who could not live in a county of laws where such principles do not prevail. We borrow it from our Saxon ancestors, from old England, it has taken root here, that the right of the citizen can only be restrained by positive law enacted by himself; and we also borrow from the same source, the equally high principle that we have a right to bring to justice and punish every man who violates that sacred principle of law.

Gentlemen of the Jury, I will recapitulate the points of our defence: First, there was no riot in the proper sense of the term, but a sudden affray. Second, if there was a riot, it was a riot procured and brought about through the instrumentality of the authorities of this city. And third, that the calling out of the Marines was oppressive, was against law, was tyrannical, and the people were bound to resist it.

We appear before you, gentlemen, under great disadvantages. There is not a press in this city that has told the truth in regard to these events, or anything like the truth. The public mind has been laboriously poisoned by lies, sentiments, and statements which I am prepared, with proof, to show are utterly false. Communications have been made to the newspapers here by respectable citizens to put them right, but the publication of them has been refused. That is not all, I here assert that every member of the Grand Jury who sat upon this case, if opposed to the American party, to which every person on trial belongs, has been brought to the polls, and the public mind has been laboriously poisoned by lies, sentiments, and statements which I am prepared, with proof, to show are utterly false. Communications have been made to the newspapers here by respectable citizens to put them right, but the publication of them has been refused. 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